

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TORRANCE MCINTYRE,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting Commissioner
of the Social Security Administration,

Defendant.

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Civil Action No. **3:21-CV-3218-L-BT**

ORDER

On February 2, 2023, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Doc. 19) (“Report”) was entered, recommending that the court affirm the decision of the Acting Commissioner of the Social Security Administration (“Commissioner”), denying Plaintiff’s applications for Social Security disability insurance benefits and supplemental security income. On February 16, 2023, Plaintiff filed objections in which he asserts that the Report did not recognize that the administrative law judge’s (“ALJ”) improperly substituted his own medical judgment by interpreting of raw medical data to determine Plaintiff’s residual functional capacity (“RFC”). Doc. 20 at 1. Plaintiff argues specifically that the Report did not recognize the ALJ’s failure to mention the recommendations from the psychological consultative examination conducted by Rosemary Brucken, Psy.D. *Id.* at 4. Plaintiff continues, asserting that “the ALJ never referred to this opinion of the consultative psychological examiner, nor did [the ALJ] provide any reasons for rejecting such opinion.” *Id.*

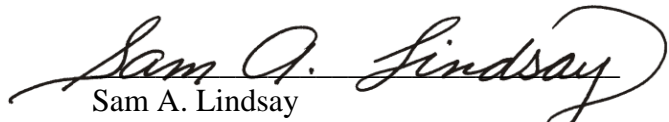
Upon review of Report and the portions of the ALJ’s opinion to which Plaintiff objects, the court finds no error. Further, the court notes that Plaintiff’s statement that the “ALJ never referred to [Dr. Brucken’s] opinion” is a blatant misrepresentation to the court. The ALJ opinion

discusses Dr. Brucken's examination in detail, including her finding that Plaintiff had no "deficits of attention, concentration, or memory," and that Plaintiff's mental state was secondary to his medical concerns that would improve with the stabilization of his health issues, for which he continued to receive treatment. Doc. 12 at 26. The court admonishes Plaintiff's counsel against making statements that directly contradict the record, as doing so smacks of violating Federal Rule of Civil Procedure 11(b)'s requirements of candor and factual veracity in filings to the court.

Accordingly, having considered the pleadings, file, Report, and record in this case, and having conducted a de novo review of that portion of the Report to which objection was made, the court determines that the magistrate judge's findings and conclusions are correct, and **accepts** them as those of the court.

Plaintiff's objections to the Report are, therefore, **overruled**; the decision of the Commissioner and denial of Plaintiff's applications for Social Security disability insurance benefits and supplemental security income are **affirmed**; and this action is **dismissed with prejudice**.

It is so ordered this 23rd day of February, 2023.


Sam A. Lindsay
United States District Judge